

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2012-63

No. 639

AN ORDINANCE IN AMENDMENT OF CHAPTER 16, ARTICLE I OF THE CODE OF ORDINANCES ENTITLED: "IN GENERAL," AS AMENDED

Approved November 28, 2012

Be it ordained by the City of Providence:

WHEREAS nuisance properties pose a threat to public safety and private property, diminish revenue, hinder economic development, drive down property values, increase investment risk, offend the general public and pose a substantial and unreasonable interference to public health, public safety, public peace, public comfort and public convenience, it is hereby the intention of the city council in passing this ordinance, in accordance with the benefits and rights of self-government prescribed in the Providence Home Rule Charter and guaranteed by the Constitution of the State of Rhode Island, to preserve the health, safety and welfare of the citizens of Providence.

SECTION 1. Chapter 16, Article 1, Sections 16-23 and 16-24 are hereby repealed in their entirety and sections 16-21 and 16-22, are hereby amended to read as follows:

Sec. 16-21. - Loud or unruly gatherings—Public nuisance.

(a) It shall be a public nuisance to conduct a gathering of five (5) or more persons on any private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, as a result of conduct constituting a violation of law. Illustrative of such unlawful conduct is excessive noise or traffic, obstruction of public streets by crowds or vehicles, illegal parking, public drunkenness, public urination, the service of alcohol to minors, fights, disturbances of the peace, and litter.

(b) *Notice via Posting.* When the police department intervenes at a gathering which constitutes a nuisance under this ordinance, the premises at which such nuisance occurred shall be posted with a notice stating that the intervention of the police has been necessitated as a result of a public nuisance under this ordinance caused by an event at the premises, the date of the police intervention, and that any subsequent event within a six (6) month period there from on the same premises which necessitates police intervention, shall result in the joint and several liability of any guests causing a public nuisance, or any persons who own or are residents of the property at which the public nuisance occurred, or who sponsored the event constituting the public nuisance

as more fully set forth below. The residents of such property shall be responsible for ensuring that such notice is not removed or defaced. It shall be an ordinance violation carrying a penalty of a minimum, mandatory one hundred dollar (\$100.00) fine in addition to any other penalties which may be due under this section if such notice is removed or defaced, provided, however, that the residents of the premises or sponsor of the event, if present, shall be consulted as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.

(c) *Notice via Mailing.* Notice of the intervention shall also be mailed to any property owner on the city property tax assessment records to advise the property owner that any subsequent such intervention within six (6) months on the same premises shall result in liability of the property owner for all penalties associated with such intervention.

(d) *Enforcement.* Every time that the police department is required to respond to a gathering constituting a public nuisance on the premises within six months of the posting of the notice of police intervention, the following persons shall be jointly and severally liable for a mandatory minimum five hundred dollar fine.

- (1) The person or persons who own the property where the gathering constituting the public nuisance took place, provided that notice has been mailed to the owner of the property as set forth herein and the gathering occurs at least two weeks after the mailing of such notice.
- (2) The person or persons residing on or otherwise in control of the property where such a gathering took place.
- (3) The person or persons who organized or sponsored such gathering.
- (4) All persons attending such gatherings who engage in any activity resulting in the public nuisance.
- (5) Nothing in this section shall be construed to impose liability on the resident or owners of the premises or sponsor of the gathering for the conduct of persons who are present without the express or implied consent of the resident or sponsor, as long as the resident and sponsor have taken all steps reasonably necessary to exclude such uninvited participants from the premises, including landlords who are actively attempting to evict a tenant from the premises. Where an invited guest engages in conduct which the sponsor or resident could not reasonably foresee and the conduct is an isolated instance of a guest at the event violating the law which the sponsor is unable to reasonably control without the intervention of the police, the unlawful conduct of the individual guest shall not be attributable to the sponsor or resident for the purposes of determining whether the event constitutes a public nuisance under this section.
- (6) Proceeds from these fines shall be deposited in a restricted receipts account designated for nuisance abatement in the City.

Sec. 16-22. – Chronic nuisance properties

(a) Definitions.

- 1) "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the Chief of Police determines is necessary in the interest of the general health, safety and welfare of the community.
- 2) "Chief of Police" means the Chief of Police or his or her designees.
- 3) "Control" means the power or ability to direct or determine conditions, conduct, or events occurring on a property.
- 4) "Chronic nuisance property" means:
 - i. a property on which two or more Nuisance Activities exist or have occurred during any six month period; or
 - ii. a property on which a search warrant has been issued and/or executed two (2) or more times within a twenty-four (24) month period related to the illegal possession, manufacture or delivery of a controlled substance or related offenses as defined in R.I.G.L. 21-28.
- 5) "Nuisance activity" includes the following:
 - i. any activity that creates a nuisance or common nuisance as defined by R.I.G.L. 11-30-1; or
 - ii. Any homicide pursuant to R.I.G.L. 11-23; or
 - iii. any illegal possession, manufacturing or delivery of a controlled substance or related offense pursuant to R.I.G.L. 21-28; or
 - iv. any assault or battery pursuant to R.I.G.L. 11-5; or
 - v. any prostitution, permitting prostitution, or promoting, advancing or profiting from prostitution pursuant to R.I.G.L. 11-34-1; or
 - vi. any weapons violations pursuant to R.I.G.L. 11-47; or
 - vii. any organized criminal gambling pursuant to R.I.G.L. 11-51

- 6) "Owner" means any person who, alone or with others, has title or interest in any property.
- 7) "Person" means an individual, group of individuals, corporation, partnership, association, club, company, business trust, joint venture, organization, or any other legal or commercial entity or the manager, lessee, agent, officer or employee of any of them.
- 8) "Person in charge" of a property means the Owner and, if different than the owner, any other person in actual or constructive possession of a property, including but not limited to, a lessee, tenant, occupant, agent, or manager of a property under his or her control.
- 9) "Property" means any land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof.

(b) *Violation.* Any property within the City of Providence that is a Chronic Nuisance property is in violation of this Chapter and subject to its remedies. Owners and other Persons in Charge who permit property to be a Chronic Nuisance property shall be in violation of this chapter and subject to its remedies. Any Owner who fails to comply with section (d) is in violation of this chapter and is subject to penalties pursuant to section (f).

(c) Declaration of Chronic Nuisance Property and Procedure.

- 1) The Chief of Police may declare that a property is a Chronic Nuisance property, as defined in this section. The Chief of Police will provide written notice of this declaration to the Person in Charge of the property. The notice shall be sent by first class mail or personally served, and a copy shall be sent by certified mail. The notice will contain the following:
 - i. the street address or a legal description sufficient for identification of the property; and
 - ii. a declaration that the Chief of Police has determined the property has become a Chronic Nuisance property with a concise description of the nuisance activities that exist or that have occurred; and
 - iii. a notice that the Persons in Charge of the property are subject to monetary penalties as set forth in section (f); and
 - iv. a demand that the Owner and other Persons in Charge respond to the Chief of Police within seven days of service of the notice to discuss a course of action to correct the nuisance; and
 - v. a notice that, if the Person in Charge does not respond to the Chief of Police as required in this section, or if the matter is not voluntarily corrected to the satisfaction of the Chief of Police, the City may file an action to abate the property as a chronic nuisance property pursuant to section (g) and/or take other action against the property or person in charge.
- 2) When a notice is issued pursuant to this section to a Person in Charge, other than an Owner or an Owner's agent, who has permitted a property to become a chronic nuisance property, a copy of such notice shall also be sent by first class mail or personally served on the owner of the property, and a copy shall be sent by certified mail.
- 3) If the Owner or Person in Charge responds as required by the notice and agrees to a course of action to abate the nuisance activities, a written correction agreement conforming to the requirements of section (e) shall be executed.
- 4) If the agreed course of action does not result in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of issuance of the notice, or within such longer period as permitted by the Chief of Police in writing or the person in charge fails to respond as required by the notice, the Chief of Police may refer the matter to the City Solicitor's office for initiation of proceedings pursuant to section (g).

(d) *Owner Cooperation.* An owner who receives a copy of a notice pursuant to section (c) shall promptly take all reasonable steps requested in writing by the Chief of Police to assist in abatement of the nuisance property. Such reasonable steps may include the owner taking all acts and pursuing all remedies, including pursuing eviction of the person in charge, that are (1) available to the owner pursuant to any lease or other agreement, and (2) consistent with state and local laws.

(e) *Corrections Agreement.* A correction agreement is a contract between the City of Providence and the Owner and/or Person in Charge of the Chronic Nuisance property in which the Owner and/or Person in Charge agree(s) to promptly take all lawful and reasonable actions, which shall be set forth in the agreement to abate the nuisance activities within a specified time and according to specified conditions. The agreement will be signed by the Person in Charge and, if different, the Owner. The agreement will include the following:

- 1) the name and address of the Owner and/or Person in Charge of the property; and
- 2) the street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring; and
- 3) a description of the nuisance activities; and
- 4) the necessary corrective action to be taken, and a date or time by which correction must be completed; and
- 5) an agreement by the Owner and/or Person in Charge that the City may inspect the property as may be necessary to determine compliance with the correction agreement; and
- 6) an agreement by the Owner and/or Person in Charge that the City may abate the nuisance and recover its costs and expenses and monetary penalties pursuant to this chapter from the person in charge for the nuisance if the terms of the correction agreement are not met; and
- 7) when a person in charge, other than an owner or an owner's agent, has permitted a property to be a chronic nuisance property, an agreement by the owner to promptly take all acts and pursue all remedies requested by the Chief of Police pursuant to section (d).

(f) *Fines.* Except as provided in this section, in addition to any other sanction or remedial procedure that may be available, from the time that notice is issued pursuant to section c(1), the Person in Charge will be subject to a penalty for the violation of this ordinance of up to \$500.00. Each and every day subsequent to the notice issued pursuant to section c(1) will constitute a new violation of this ordinance until the Chief of Police confirms that the property is no longer a chronic nuisance. If the agreed course of action results in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of the notice issued pursuant to section c(1), or such longer period allowed by the Chief of Police pursuant to section c(4), the matter will not be referred to the City Solicitor's office and the Person in Charge will not be subject to any penalty pursuant to this Chapter. An owner who fails to comply with section d. is subject to a civil penalty of up to \$25,000. All parties found to be in violation of this section shall be jointly and severally liable for all monetary penalties and/or fines. Proceeds from these fines shall be deposited in a restricted receipts account designated for nuisance abatement in the City.

(g) *Enforcement.* Upon referral pursuant to section (c). the City Solicitor may initiate an action in any court of competent jurisdiction to abate a Chronic Nuisance property, to impose penalties pursuant to this chapter, to seek alternative remedies under city or state laws and seek any other relief authorized by law.

(h) *Burden of Proof.* In an action against a Person in Charge to abate a chronic nuisance property or to recover penalties authorized by this chapter, the City will have the burden of proof to show by a preponderance of the evidence that the property is a Chronic Nuisance property pursuant to this chapter. In an action against an Owner or Person in Charge to recover penalties authorized by section f, the City will have the additional burden to prove by a preponderance of the evidence that the owner failed to comply with section d. Copies of police incident reports and reports of other city departments documenting nuisance activities shall be admissible in such actions. Additionally, evidence of a property's general reputation and the reputation of persons residing in or frequenting the property shall be admissible in such actions.

(i) *Remedies.* If the Court determines a Property is a Chronic Nuisance property pursuant to this chapter the court will order the Person in Charge to immediately abate nuisance activity from occurring on the property. The order may include damages as provided in this section and may include any of the following: Any order that will reasonably abate nuisance activities from occurring on the property, including authorizing the City to take action to abate nuisance activities from occurring upon the property if other court orders are not complied with or do not abate nuisance activity on the property and providing that the costs of such City action are to be paid for by the person in charge of the property; ordering the Owner to make reasonable expenditures upon the property, including the installation of secure locks, hiring private security personnel, increasing lighting in common areas, and using videotaped surveillance of the property and adjacent alleys, sidewalks, or parking lots; ordering all rental income from the property to be placed in an escrow account with the court for up to 90 days or until the Chronic Nuisance is abated; ordering the property transferred to a receiver, to be appointed by the court, who will be empowered to use the rental income to make reasonable expenditures related to the property in order to abate the Chronic Nuisance; ordering the property vacated or sealed; ordering that the Chief of Police shall have the right to inspect the property to determine if the court's orders have been complied with; or any other appropriate remedy. The following damages may be included in order to effectuate the equitable remedy of abatement. A penalty for the violation of this ordinance of up to \$500.00 for each and every day subsequent to the notice issued pursuant to section c(1) until the Chief of Police confirms that the property is no longer a chronic nuisance. If the court finds that an owner failed to take all reasonable steps requested in writing pursuant to section (d).the court may impose a civil penalty up to \$25,000. Assessment of reasonable attorney fees and costs to the City of Providence.

(j) *Additional Remedies.* In addition to the remedies authorized by section (i). if, as part of its order abating a chronic nuisance property, the court orders a person in charge to cease renting or leasing a property, the court may order the person in charge to pay relocation assistance to any tenant (1) who must relocate because of the order of abatement, and (2) the court finds not to have caused or participated in nuisance activities at the property, provided that such relocation assistance shall not exceed \$1,500 per unit vacated

(k) *Suspension of business license.* In addition to any other remedy that is authorized by this chapter or other laws, upon the finding by a court that a property is a Chronic Nuisance property pursuant to this chapter, the person in charge is subject to the suspension or revocation of a business license or other license at such property issued by the City of Providence.

SECTION 2. *Repeal of Chapter 13, Article 10, Division 1, Section 13-212.* Chapter 13, Article 10, Division 1, Section 13-212 is hereby repealed in its entirety

SECTION 3. *Severability.* If any section or portion of this ordinance is determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions of this ordinance shall remain in full force and effect.

SECTION 4. *Effective date.* This ordinance shall take effect upon passage.

IN CITY COUNCIL
NOV 01 2012
FIRST READING
READ AND PASSED
C. M. Stebbins CLERK

IN CITY
COUNCIL
NOV 19 2012
FINAL READING
READ AND PASSED
[Signature] PRESIDENT
C. M. Stebbins CLERK

I HEREBY APPROVE.
[Signature]
Mayor
Date: 11/28/12



City of Providence
Angel Taveras, Mayor | Jeffrey Padwa, City Solicitor

PROVIDENCE'S PUBLIC NUISANCE ORDINANCE SECTIONS 16 21-24 OF THE CODE OF ORDINANCES

Summary

- The City Solicitor's Nuisance Task Force has received complaints that Providence neighborhoods face the issue of loud and disruptive gatherings that involve large numbers of people, illegal activity, and substantial disturbances to the surrounding neighbor's ability to enjoy their homes and properties.
- Existing law allows the Police Department to address these nuisances if they meet the 'party house' standard and to issue fines for habitual violations but the law needs clarification and simplification.
- The Nuisance Task force is also fighting a growing number of 'drug houses' that habitual criminal offenders use to facilitate criminal activity, but it is doing so without the necessary tools.
- The proposed amendments would accomplish two objectives: clarifying the 'party house' provision; and creating a 'drug house' provision that permits the Police Department to take action against properties which are consistently violating laws regarding drugs, violent crime and prostitution.

'PARTY HOUSE' PROVISION

The current law addresses 'Party Houses' by providing fines for public nuisances

Under current law, what is a Public Nuisance?

A public nuisance is defined as any gathering of five or more people where *illegal* activity results in a substantial disturbance to a substantial portion of the neighborhood.

What does the current law do about Public Nuisances?

The Providence Police Department can issue a fine if the Department is forced to intervene to abate more than one public nuisance in a sixty day period. If the police respond to and abate a public nuisance:

- Notice is posted on the property where the police abated the public nuisance.
- Notice is sent to the owner of the property where the public nuisance was abated.
- If the police are required to abate any other public nuisance within sixty days of the notice being posted on the property, a fine is issued

The following parties are jointly and severally liable for paying the fine: the owner of the property, the residents of the property, any person in control of the property and any person who organized or sponsored the gathering that resulted in the public nuisance. This means that all parties are responsible and the City can collect from any of these parties.

CITY SOLICITOR'S OFFICE

444 Westminster Street, Suite 220, Providence, Rhode Island 02903
(401) 680-5333 | (401) 680-5520
www.providenceri.com

What does the amendment to the “Party House” provision do?

The amendment will make two changes to the existing ordinance:

- Increases the amount of time that the Police Department can issue citations and fines for subsequent public nuisance violations from sixty days to six months.
 - Simplifies the fine structure to a flat \$500 per violation fine. Currently, fines increase per violation until maxing out at \$500.00 after the second violation and then add an additional \$200.00 per violation per tenant cited for a violation.
-

‘DRUG HOUSE’ PROVISION

Why is it necessary to add a “Drug House” provision to this ordinance?

There are properties in the City of Providence that perpetually host illegal activities and create unacceptable danger and fear in the surrounding neighborhoods. The list of nuisance properties is extensive but the following three cases are representative:

- At one property in the West End, the Police Department responded to six calls for service in a 5 month period for incidents involving; motor vehicle theft, breaking and entering, larceny, narcotics, assault, and felony assault.
- A single property in Federal Hill had 21 calls for service in the last three years that included a shooting, distribution of controlled substances, assault, battery and house invasion. In February 2012, a raid conducted by the Police Department yielded illegal drugs and guns from two separate apartments on that property
- At one property in Olneyville that backs up to an elementary school, the Police Department responded to over 200 calls for service during one 12 month period.

What does the proposed “Drug House” amendment do?

- The proposed amendment to section 16-22 allows the Chief of Police to formally identify a property as a Chronic Nuisance and, once identified, it requires the owner of that property to work with the Police Department to immediately and sustainably abate the nuisance.

A Chronic Nuisance Property is defined as any property where:

1. Two or more Nuisance Activities exist or have occurred in any six month period; OR
2. Two or more search warrants have been issued or executed in a 24 month period related to the illegal possession, manufacture or delivery of a controlled substance or related offenses.

What is a Nuisance Activity?

A nuisance activity is defined as any of the following activities: homicide; illegal possession, manufacturing or delivery of a controlled substance or related offense; assault or battery; prostitution or permitting, promoting, advancing, or profiting from prostitution; weapons violation; organized criminal gambling, or any activity that creates a nuisance or common nuisance defined by R.I.G.L 11-30-1.

What happens after the Chief of Police declares that a property is a Chronic Nuisance?

1. The Police Department sends notice to the owner of the property that the property has been designated Chronic Nuisance.
2. The owner is asked to assist the police in abating the nuisance.
3. The owner is asked to enter into a corrections agreement with the Police Department that will contractually obligate him or her to abate the nuisance.

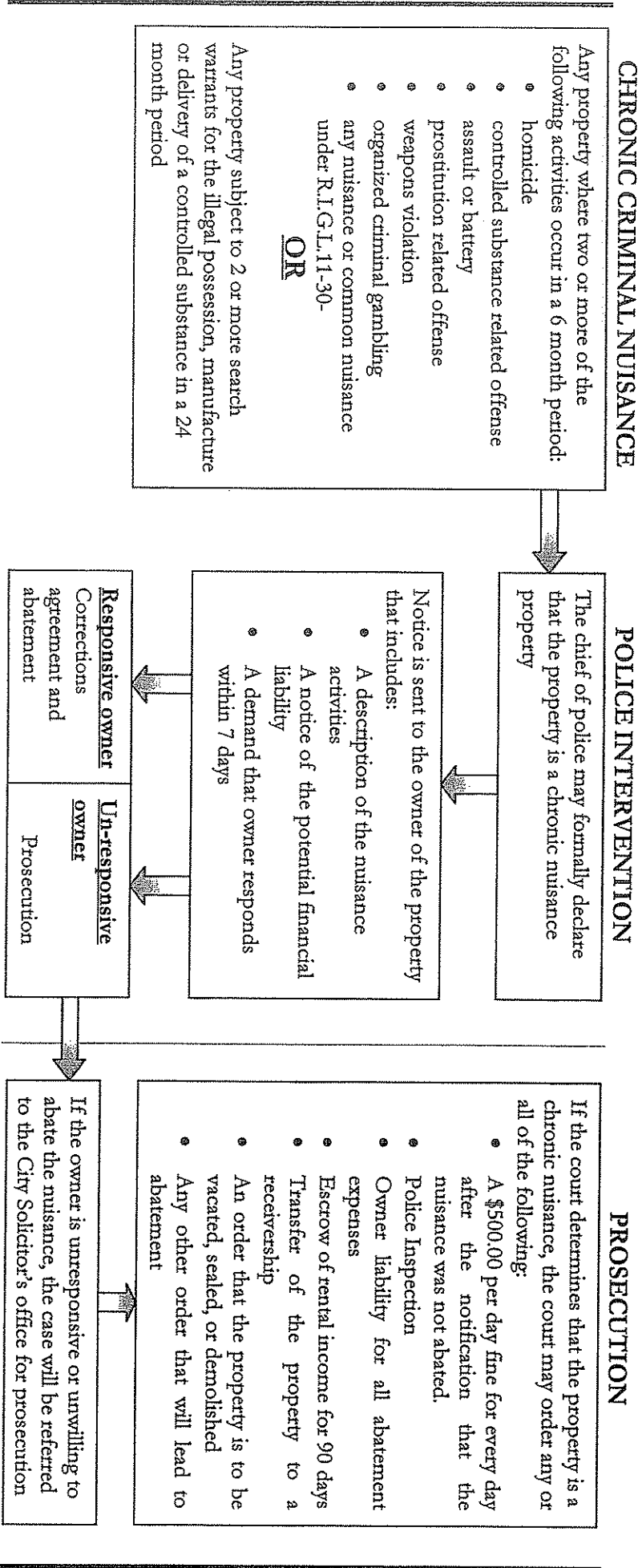
If the owner of the property fails to respond or refuses to assist the Police Department in abating the nuisance, the police department may turn the case over to the City Solicitor's Office for prosecution. If the court determines that the property is a chronic nuisance, the court may order any or all of the following:

- A \$500.00 per day fine to the owner for everyday following the notification that the nuisance was not abated, not to exceed \$25,000.00.
- An order that makes the owner responsible for reasonable expenditures upon the property, including the installation of secure locks, hiring private security personnel, increasing lighting in common areas, and using videotaped surveillance of the property and adjacent alleys, sidewalks, or parking lots.
- An order that all rental income from the property is to be placed in an escrow account with the court for up to 90 days or until the Chronic Nuisance is abated.
- An order that the property is to be transferred to a receiver, to be appointed by the court, who will be empowered to use the rental income to make reasonable expenditures related to the property in order to abate the Chronic Nuisance.
- An order that the property is to be vacated, sealed, or demolished.
- An order that the Chief of Police has the right to inspect the property to determine it is in compliance with court orders.
- Any other order that will reasonably abate nuisance activities from occurring on the property, including authorizing the City to take action to abate nuisance activities from occurring upon the property.



City of Providence
Angel Taveras, Mayor | Jeffrey Padwa, City Solicitor

‘DRUG HOUSE’ ORDINANCE
PROPOSED AMENDMENT TO SEC 16-22 OF THE CODE OF ORDINANCES

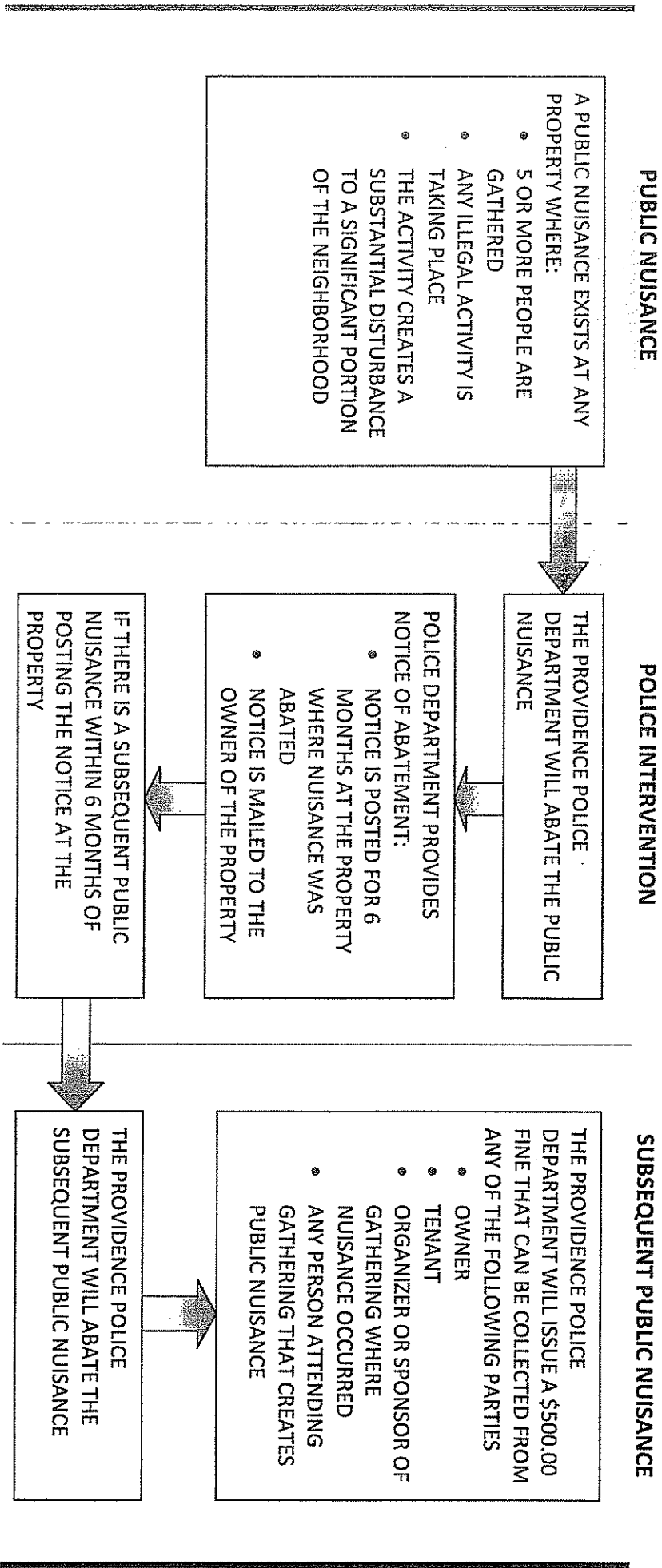




City of Providence
Angel Taveras, Mayor | Jeffrey Padwa, City Solicitor

‘PARTY HOUSE’ ORDINANCE

PROPOSED AMENDMENT TO SEC 16-21 OF THE CODE OF ORDINANCES



CITY SOLICITOR'S OFFICE

444 Westminster Street, Suite 220, Providence, Rhode Island 02903

(401) 680-5333 | (401) 680-5520

www.providenceri.com

City of Providence**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS****CHAPTER**

**No. AN ORDINANCE IN AMENDMENT OF
CHAPTER 16, ARTICLE I OF THE CODE
OF ORDINANCES ENTITLED "IN
GENERAL," AS AMENDED**

Be it Ordained by the City of Providence:

WHEREAS nuisance properties pose a threat to public safety and private property, diminish revenue, hinder economic development, drive down property values, increase investment risk, offend the general public and pose a substantial and unreasonable interference to public health, public safety, public peace, public comfort and public convenience, it is hereby the intention of the city council in passing this ordinance, in accordance with the benefits and rights of self-government prescribed in the Providence Home Rule Charter and guaranteed by the Constitution of the State of Rhode Island, to preserve the health, safety and welfare of the citizens of Providence.

SECTION 1. Chapter 16, Article 1, Sections 16-23 and 16-24 are hereby repealed in their entirety and sections 16-21 and 16-22, are hereby amended to read as follows:

Sec. 16-21. - Loud or unruly gatherings—Public nuisance.

(a) It shall be a public nuisance to conduct a gathering of five (5) or more persons on any private property in a manner which constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, as a result of conduct constituting a violation of law. Illustrative of such unlawful conduct is excessive noise or traffic, obstruction of public streets by crowds or vehicles, illegal parking, public drunkenness, public urination, the service of alcohol to minors, fights, disturbances of the peace, and litter.

(b) *Notice via Posting.* When the police department intervenes at a gathering which constitutes a nuisance under this ordinance, the premises at which such nuisance occurred shall be posted with a notice stating that the intervention of the police has been necessitated as a result of a public nuisance under this ordinance caused by an event at the premises, the date of the police intervention, and that any subsequent event within a six (6) month period therefrom on the same premises which necessitates police intervention, shall result in the joint and several liability of any guests causing a public nuisance, or any persons who own or are residents of the property at which the public nuisance occurred, or who sponsored the event constituting the public nuisance as more fully set forth below. The residents of such property shall be responsible for ensuring

that such notice is not removed or defaced. It shall be an ordinance violation carrying a penalty of a minimum, mandatory one hundred dollar (\$100.00) fine in addition to any other penalties which may be due under this section if such notice is removed or defaced, provided, however, that the residents of the premises or sponsor of the event, if present, shall be consulted as to the location in which such notice is posted in order to achieve both the security of the notice and its prominent display.

(c) *Notice via Mailing.* Notice of the intervention shall also be mailed to any property owner on the city property tax assessment records to advise the property owner that any subsequent such intervention within six (6) months on the same premises shall result in liability of the property owner for all penalties associated with such intervention.

(d) *Enforcement.* Every time that the police department is required to respond to a gathering constituting a public nuisance on the premises within six months of the posting of the notice of police intervention, the following persons shall be jointly and severally liable for a mandatory minimum five hundred dollar fine.

- (1) The person or persons who own the property where the gathering constituting the public nuisance took place, provided that notice has been mailed to the owner of the property as set forth herein and the gathering occurs at least two weeks after the mailing of such notice.
- (2) The person or persons residing on or otherwise in control of the property where such a gathering took place.
- (3) The person or persons who organized or sponsored such gathering.
- (4) All persons attending such gatherings who engage in any activity resulting in the public nuisance.
- (5) Nothing in this section shall be construed to impose liability on the resident or owners of the premises or sponsor of the gathering for the conduct of persons who are present without the express or implied consent of the resident or sponsor, as long as the resident and sponsor have taken all steps reasonably necessary to exclude such uninvited participants from the premises, including landlords who are actively attempting to evict a tenant from the premises. Where an invited guest engages in conduct which the sponsor or resident could not reasonably foresee and the conduct is an isolated instance of a guest at the event violating the law which the sponsor is unable to reasonably control without the intervention of the police, the unlawful conduct of the individual guest shall not be attributable to the sponsor or resident for the purposes of determining whether the event constitutes a public nuisance under this section.
- (6) Proceeds from these fines shall be deposited in a restricted receipts account designated for nuisance abatement in the City.

Sec. 16-22. – Chronic nuisance properties

(a) Definitions.

- 1) "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the Chief of Police determines is necessary in the interest of the general health, safety and welfare of the community.
- 2) "Chief of Police" means the Chief of Police or his or her designees.

- 3) "Control" means the power or ability to direct or determine conditions, conduct, or events occurring on a property.
- 4) "Chronic nuisance property" means:
 - i. a property on which two or more Nuisance Activities exist or have occurred during any six month period; or
 - ii. a property on which a search warrant has been issued and/or executed two (2) or more times within a twenty-four (24) month period related to the illegal possession, manufacture or delivery of a controlled substance or related offenses as defined in R.I.G.L. 21-28.
- 5) "Nuisance activity" includes the following:
 - i. any activity that creates a nuisance or common nuisance as defined by R.I.G.L. 11-30-1; or
 - ii. Any homicide pursuant to R.I.G.L. 11-23; or
 - iii. any illegal possession, manufacturing or delivery of a controlled substance or related offense pursuant to R.I.G.L. 21-28; or
 - iv. any assault or battery pursuant to R.I.G.L. 11-5; or
 - v. any prostitution, permitting prostitution, or promoting, advancing or profiting from prostitution pursuant to R.I.G.L. 11-34-1; or
 - vi. any weapons violations pursuant to R.I.G.L. 11-47; or
 - vii. any organized criminal gambling pursuant to R.I.G.L. 11-51
- 6) "Owner" means any person who, alone or with others, has title or interest in any property.
- 7) "Person" means an individual, group of individuals, corporation, partnership, association, club, company, business trust, joint venture, organization, or any other legal or commercial entity or the manager, lessee, agent, officer or employee of any of them.
- 8) "Person in charge" of a property means the Owner and, if different than the owner, any other person in actual or constructive possession of a property, including but not limited to, a lessee, tenant, occupant, agent, or manager of a property under his or her control.
- 9) "Property" means any land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof.

(b) *Violation.* Any property within the City of Providence that is a Chronic Nuisance property is in violation of this Chapter and subject to its remedies. Owners and other Persons in Charge who permit property to be a Chronic Nuisance property shall be in violation of this chapter and subject to its remedies. Any Owner who fails to comply with section (d) is in violation of this chapter and is subject to penalties pursuant to section (f).

(c) *Declaration of Chronic Nuisance Property and Procedure.*

- 1) The Chief of Police may declare that a property is a Chronic Nuisance property, as defined in this section. The Chief of Police will provide written notice of this declaration to the Person in Charge of the property. The notice shall be sent by first class mail or personally served, and a copy shall be sent by certified mail. The notice will contain the following:
 - i. the street address or a legal description sufficient for identification of the property; and
 - ii. a declaration that the Chief of Police has determined the property has become a Chronic Nuisance property with a concise description of the nuisance activities that exist or that have occurred; and
 - iii. a notice that the Persons in Charge of the property are subject to monetary penalties as set forth in section (f); and
 - iv. a demand that the Owner and other Persons in Charge respond to the Chief of Police within seven days of service of the notice to discuss a course of action to correct the nuisance; and
 - v. a notice that, if the Person in Charge does not respond to the Chief of Police as required in this section, or if the matter is not voluntarily corrected to the satisfaction of the Chief of Police, the City may file an action to abate the property as a chronic nuisance property pursuant to section (g) and/or take other action against the property or person in charge.
- 2) When a notice is issued pursuant to this section to a Person in Charge, other than an Owner or an Owner's agent, who has permitted a property to become a chronic nuisance property, a copy of such notice shall also be sent by first class mail or personally served on the owner of the property, and a copy shall be sent by certified mail.
- 3) If the Owner or Person in Charge responds as required by the notice and agrees to a course of action to abate the nuisance activities, a written correction agreement conforming to the requirements of section (e) shall be executed.
- 4) If the agreed course of action does not result in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of issuance of the notice, or within such longer period as permitted by the Chief of Police in writing or the person in charge fails to respond as required by the notice, the Chief of Police may refer the matter to the City Solicitor's office for initiation of proceedings pursuant to section (g).

(d) *Owner Cooperation.* An owner who receives a copy of a notice pursuant to section (c) shall promptly take all reasonable steps requested in writing by the Chief of Police to assist in abatement of the nuisance property. Such reasonable steps may include the owner taking all acts and pursuing all remedies, including pursuing eviction of the person in charge, that are (1) available to the owner pursuant to any lease or other agreement, and (2) consistent with state and local laws.

(e) *Corrections Agreement.* A correction agreement is a contract between the City of Providence and the Owner and/or Person in Charge of the Chronic Nuisance property in which the Owner and/or Person in Charge agree(s) to promptly take all lawful and reasonable actions, which shall be set forth in the agreement to abate the nuisance activities within a specified time and according to specified conditions. The agreement will be signed by the Person in Charge and, if different, the Owner. The agreement will include the following:

- 1) the name and address of the Owner and/or Person in Charge of the property; and
- 2) the street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring; and
- 3) a description of the nuisance activities; and
- 4) the necessary corrective action to be taken, and a date or time by which correction must be completed; and
- 5) an agreement by the Owner and/or Person in Charge that the City may inspect the property as may be necessary to determine compliance with the correction agreement; and
- 6) an agreement by the Owner and/or Person in Charge that the City may abate the nuisance and recover its costs and expenses and monetary penalties pursuant to this chapter from the person in charge for the nuisance if the terms of the correction agreement are not met; and
- 7) when a person in charge, other than an owner or an owner's agent, has permitted a property to be a chronic nuisance property, an agreement by the owner to promptly take all acts and pursue all remedies requested by the Chief of Police pursuant to section (d).

(f) *Fines.* Except as provided in this section, in addition to any other sanction or remedial procedure that may be available, from the time that notice is issued pursuant to section c(1), the Person in Charge will be subject to a penalty for the violation of this ordinance of up to \$500.00. Each and every day subsequent to the notice issued pursuant to section c(1) will constitute a new violation of this ordinance until the Chief of Police confirms that the property is no longer a chronic nuisance. If the agreed course of action results in the abatement of nuisance activities to the satisfaction of the Chief of Police within thirty days of the notice issued pursuant to section c(1), or such longer period allowed by the Chief of Police pursuant to section c(4), the matter will not be referred to the City Solicitor's office and the Person in Charge will not be subject to any penalty pursuant to this Chapter. An owner who fails to comply with section d. is subject to a civil penalty of up to \$25,000. All parties found to be in violation of this section shall be jointly and severally liable for all monetary penalties and/or fines. Proceeds from these fines shall be deposited in a restricted receipts account designated for nuisance abatement in the City.

(g) *Enforcement.* Upon referral pursuant to section (c). the City Solicitor may initiate an action in any court of competent jurisdiction to abate a Chronic Nuisance property, to impose penalties

pursuant to this chapter, to seek alternative remedies under city or state laws and seek any other relief authorized by law.

(h) *Burden of Proof.* In an action against a Person in Charge to abate a chronic nuisance property or to recover penalties authorized by this chapter, the City will have the burden of proof to show by a preponderance of the evidence that the property is a Chronic Nuisance property pursuant to this chapter. In an action against an Owner or Person in Charge to recover penalties authorized by section f, the City will have the additional burden to prove by a preponderance of the evidence that the owner failed to comply with section d. Copies of police incident reports and reports of other city departments documenting nuisance activities shall be admissible in such actions. Additionally, evidence of a property's general reputation and the reputation of persons residing in or frequenting the property shall be admissible in such actions.

(i) *Remedies.* If the Court determines a Property is a Chronic Nuisance property pursuant to this chapter the court will order the Person in Charge to immediately abate nuisance activity from occurring on the property. The order may include damages as provided in this section and may include any of the following: Any order that will reasonably abate nuisance activities from occurring on the property, including authorizing the City to take action to abate nuisance activities from occurring upon the property if other court orders are not complied with or do not abate nuisance activity on the property and providing that the costs of such City action are to be paid for by the person in charge of the property; ordering the Owner to make reasonable expenditures upon the property, including the installation of secure locks, hiring private security personnel, increasing lighting in common areas, and using videotaped surveillance of the property and adjacent alleys, sidewalks, or parking lots; ordering all rental income from the property to be placed in an escrow account with the court for up to 90 days or until the Chronic Nuisance is abated; ordering the property transferred to a receiver, to be appointed by the court, who will be empowered to use the rental income to make reasonable expenditures related to the property in order to abate the Chronic Nuisance; ordering the property vacated, sealed, or demolished; ordering that the Chief of Police shall have the right to inspect the property to determine if the court's orders have been complied with; or any other appropriate remedy. The following damages may be included in order to effectuate the equitable remedy of abatement. A penalty for the violation of this ordinance of up to \$500.00 for each and every day subsequent to the notice issued pursuant to section c(1) until the Chief of Police confirms that the property is no longer a chronic nuisance. If the court finds that an owner failed to take all reasonable steps requested in writing pursuant to section (d).the court may impose a civil penalty up to \$25,000. Assessment of reasonable attorney fees and costs to the City of Providence.

(j) *Additional Remedies.* In addition to the remedies authorized by section (i). if, as part of its order abating a chronic nuisance property, the court orders a person in charge to cease renting or leasing a property, the court may order the person in charge to pay relocation assistance not to

exceed \$3,300 to any tenant (1) who must relocate because of the order of abatement, and (2) the court finds not to have caused or participated in nuisance activities at the property.

(k) *Suspension of business license.* In addition to any other remedy that is authorized by this chapter or other laws, upon the finding by a court that a property is a Chronic Nuisance property pursuant to this chapter, the person in charge is subject to the suspension or revocation of a business license or other license at such property issued by the City of Providence.

SECTION 2. *Repeal of Chapter 13, Article 10, Division 1, Section 13-212.* Chapter 13, Article 10, Division 1, Section 13-212 is hereby repealed in its entirety

SECTION 3. *Severability.* If any section or portion of this ordinance is determined invalid or unconstitutional, that section or portion shall be deemed severable and all remaining sections or portions of this ordinance shall remain in full force and effect.

SECTION 4. *Effective date.* This ordinance shall take effect upon passage.



City of Providence
Angel Taveras, Mayor | Jeffrey Padwa, City Solicitor

CHRONIC NUISANCE ORDINANCE
Changes to the Original Amendment Proposal

The following is a list of changes made to the proposed amendment to the nuisance ordinance after it was originally submitted for consideration.

1. **Section 1** – Amendment now includes language specific to repeal Chapter 16, Article 1, Sections 16-23 and 16-24.
2. **Section 1 (16-21(d) Enforcement)** – The language that defined the potential fined under sec.16-21 was changed from “\$500 per day from date of the subsequent police intervention up to \$25,000” to “a mandatory minimum five hundred dollar fine”.
3. **Section 1 (16-21(e) Fines)** – Section (e) included language regarding other sanctions or remedial measures. This section has been deleted.
4. **Section 1 (16-22(a)(5)(iii))** – Section (a)(5)(ii) included any offense that had the potential for at least one year imprisonment as a nuisance activity. This section has been deleted.
5. **Section 1(16-22(a)(5)(viii))** – Section (a)(5)(viii) included drug traffic loitering as a nuisance activity. This section has been deleted.
6. **Section 1(16-22(a)(5)(ix))** - Section (a)(5)(ix) included gang related activity as a nuisance activity. This section has been deleted.
7. **Section 2** – Section 2 now reads: Chapter 13, Article 10, Division 1, Section 13-212 is hereby repealed in its entirety.
8. **Sections 3 and 4** – Sections 2 and 3 in the original proposed amendment are now sections 3 and 4.

CITY SOLICITOR’S OFFICE

444 Westminster Street, Suite 220, Providence, Rhode Island 02903
(401) 680-5333 | (401) 680-5520
www.providenceri.com